

REMARKS

Applicants have amended claims 1 and 29 to replace the expression “retaining means” by the “retaining member” language used in the specification that corresponds to the structure of the means plus function expression. Thus, this amendment does not change claim scope. Claims 2, 3, 7, 8, 11-13, 15 and 16 have been amended to reflect the amendment of claim 1. Applicants have cancelled claim 30. No new matter has been added, and no new issue has been raised.

Claims 1, 2, 4-7, 12-15, 19-22, 29-32, 35 and 36 have been rejected under 35 USC 103(a) as unpatentable over U.S. Patent No. 5,378,628 (Grätzel) in view of U.S. Patent No. 3,642,450 (Eriksson). Applicants respectfully traverse this rejection.

Claim 1 as amended recites an analyzing device comprising an opening for accepting the sensor pack, and a retaining member retaining the sensor chip in the sensor pack accepted through the opening. This amendment finds support, for example, at page 17, lines 5-9, and page 18, lines 30-32, of the specification. Because the claimed retaining member of the analyzing device holds the sensor chip firmly, an operator of the claimed analyzing system can easily set the sensor chip for the measurement by removing the packaging material. See, for example, page 2, lines 12-16, of the specification.

The Examiner contends that Grätzel’s cavity 10 and its surrounding portion 8 of Grätzel’s analyzing device 4 correspond to the claimed plunger. However, Grätzel fails to teach any structure that may be considered as a *member* retaining the sensor chip, as claimed. A cavity is the antithesis of a member. In fact, the only structure in Grätzel that retains Grätzel’s sensor chip 6 is the mouth 10 of the analyzing device 4, as the Examiner points out properly. Again, a mouth is an opening and not the claimed retaining member.

Eriksson does not describe such a retaining member either. Thus, Grätzel and Eriksson together do not teach or suggest the claimed analyzing device that includes the member retaining the sensor chip.

Claim 29 recites the same retaining member as claim 1 and thus is patentable over Grätzel and Eriksson.

The rejection of claim 30 is moot in light of the cancellation of claim 30.

Claim 31 recites positioning means for positioning the sensor chip in the packaging material. The Examiner contends that an edge of Grätzel sensor chip 6 corresponds to the claimed positioning means because such an edge is positioned in the cavity 10 of Grätzel's analyzing device 4. See, page 4 of the Action. However, the claimed positioning means positions the sensor chip in the packaging material, and not in the analyzing device, as taught by Grätzel. Grätzel does not even disclose any packaging material, as the Examiner admits at page 3 of the Action, and thus cannot provide the teachings for the claimed positioning means. Eriksson does not teach or suggest the claimed positioning means either. Thus, Grätzel and Eriksson together do not teach or suggest the claimed positioning means that positions the sensor chip in the packaging material.

In rejecting claim 32, the Examiner states that "it is the structural limitations of the apparatus, as recited in the claims, which are considered in determining the patentability of the apparatus. ... These claims recite various process or use limitations and are accorded no patentable weight to an apparatus." See, page 5 of Action. Applicants respectfully disagree. Claim 32 recites a force receiving portion provided in the packaging material and configured to be broken by the sensor chip. Clearly, this is a structural limitation of the claimed sensor pack and should be accorded patentable weight.

Grätzel does not teach or suggest the claimed force receiving portion of the packing material because Grätzel does not disclose any packing material at all. Even though Eriksson teaches welded parting lines 18 and 19 formed in Eriksson's packing material 13 that break on application of a force, Eriksson's parting lines 18 and 19 are configured to break by pulling Eriksson's packing material 13 from both ends and not configured to be broken by the sensor chip inside the packing material, as claimed. See, for example, column 2, line 74 - column 3, line 2, of Eriksson. Thus, Grätzel and Eriksson together do not teach or suggest the claimed force receiving portion.

Claim 35 states that a cross-sectional shape of the sensor pack as viewed in the direction of insertion and from an orientation different from the predetermined orientation is different from a cross-sectional shape of the opening of the analyzing device as viewed in the direction of insertion of the sensor pack. Because the cross-sectional shape of the claimed sensor pack viewed from a trailing end of the sensor pack is different from the shape of the opening of the analyzing device, it is possible to avoid inserting the sensor pack into the analyzing device from a wrong end. See, for example, page 40, lines 12-17, of the specification.

The Examiner contends that Grätzel's FIG. 4 discloses the claimed cross-sectional structure of the sensor pack. However, Grätzel's FIG. 4 is a plan view. This drawing, or any other part of Grätzel, does not teach any cross-sectional structure of Grätzel's sensor pack 6, much less the claimed cross-sectional structure that is different from the shape of the opening. Thus, Grätzel and Eriksson together do not teach or suggest the claimed cross-sectional shape of the sensor pack.

Claim 36 states that a portion of the sensor pack on one side in the direction of insertion and another portion of the sensor pack on the opposite side have different shapes. Because the

shape of the claimed sensor pack at its trailing end of the sensor pack is different from the shape at its leading end, it is possible to avoid inserting the sensor pack into the analyzing device from a wrong end. See, for example, page 40, line 30 - page 41, line 3, of the specification.

The Examiner seems to rely on Grätzel's FIG. 4 again for this teaching. However, this plan view does not show any structural difference between its leading end and its trailing end. In fact, the two ends have an identical shape, contrary to the Examiner's contention. In addition, because Grätzel's FIG. 4 is a plan view, it does not show any structure along its cross-sectional plane, as described above. Thus, Grätzel and Eriksson do not teach or suggest the claimed shape of the sensor pack.

Accordingly, Grätzel and Eriksson together do not teach or suggest the claimed invention as a whole. Thus, the rejection of claims 1, 2, 4-7, 12-15, 19-22, 29-32, 35 and 36 under 35 USC 103(a) over Grätzel and Eriksson should be withdrawn.

The remaining rejections rely on Grätzel and Eriksson and thus should be withdrawn as well because Grätzel and Eriksson do not provide the teachings for which they are cited.

In light of the above, a Notice of Allowance is solicited.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to

Deposit Account No. 03-1952, referencing Docket No. 482842000300.

Respectfully submitted,

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